

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:10CR150

vs.

CESAR D. FRANCO,

Defendant.

ORDER

This matter is before the court on its own motion. A movant cannot appeal an adverse ruling on his § 2255 motion unless he is granted a certificate of appealability. [28 U.S.C. § 2253\(c\)\(1\)](#); [Fed. R. App. P. 22\(b\)\(1\)](#). A certificate of appealability cannot be granted unless the movant “has made a substantial showing of the denial of a constitutional right.” [28 U.S.C. § 2253\(c\)\(2\)](#). To make such a showing, the movant must demonstrate that reasonable jurists would find the Court’s assessment of the constitutional claims debatable or wrong. [*Tennard v. Dretke*, 542 U.S. 274, 282 \(2004\)](#); see also [*Gonzalez v. Thaler*, 132 S. Ct. 641, 648 \(2012\)](#).

In this case, the defendant has failed to make a substantial showing of the denial of a constitutional right. The court is not persuaded that the issues raised are debatable among reasonable jurists, that a court could resolve the issues differently, or that the issues deserve further proceedings. Accordingly, the court will not issue a certificate of appealability.

IT IS HEREBY ORDERED that the court will not issue a certificate of appealability in this case.

DATED this 22nd day of July, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge